

Accrediting Technical Representatives in Italy: Avoiding the Reinvention of the Wheel

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INTRODUCTION

When the NATO Status of Forces Agreement (*hereinafter* NATO SOFA) came into existence in 1951, there was no mention Department of Defense contractors as a category of personnel. Fortunately, in the supplemental agreements between Italy and the United States, this then small category of personnel was recognized. The supplemental agreements acknowledged a category of the forces that it termed “Technical Representatives” (*hereinafter* TRs). This term referred contractors under the supervision of DoD who perform work in Italy on more than a temporary basis. Fast forward to modern day: DoD contractors are a substantial and vital part of the U.S. Forces in Italy. Unfortunately, it had become difficult for the U.S. Forces to have accurate controls over the contractors who qualified as TRs. The U.S. Forces needed a process in which it could control the accreditation of TRs under the NATO SOFA and U.S. & Italy supplemental agreements. The answer to the problem came from a process already in place in Germany to screen DoD contractors for similar NATO SOFA status. The DoD Contractor Personnel Office (*hereinafter* DOCPER) in Germany, along with the U.S. Sending State Office (*hereinafter* USSSO) and the Service Component Headquarters in Italy, adapted the process used in Germany to operations in Italy. The result has been a significant increase in control of accreditation as well as a systematic process for DoD Contracting Officer Representatives (*hereinafter* CORs) and DoD contractors.

BACKGROUND

The NATO SOFA was signed on 19 June 1951. Soon after, the United States and Italy signed the Agreement Between the United States of America and the Republic of Italy Regarding Bilateral Infrastructure in Implementation of Article III of the North Atlantic Treaty of 20 October 1954 [Classified] (*hereinafter* “BIA”). The BIA supplemented the NATO SOFA. Part of the BIA recognized that personnel who were not military members or DoD civilian employees may come over to Italy to assist the U.S. Forces. Thus, an additional category of personnel was recognized by the governments of the U.S. and Italy. This category was designated as “Civilian Personnel.” This category was subdivided into further categories. One of the subcategories of Civilian Personnel is TRs. This category represented those contractors who came over for more than a temporary period to assist the U.S. Forces.

In 1995, the U.S. Forces and Italian Ministry of Defense signed the Memorandum of Understanding Between the Ministry of Defense of the Republic of Italy and the Department of Defense of the United States of America Concerning the Use of Installations/ Infrastructure (*hereinafter* “Shell Agreement”). The Shell Agreement carried forward the concept of TR. Significantly, for the first time there was an unclassified definition of TRs:

"Civilian personnel" are those personnel contemplated in Article 6 of the BIA which covers, in addition to the "civilian component" of a force, persons such as those listed below, who are closely affiliated with the United States Armed Forces and under their

authority, but not employed directly by them, on the condition that the presence of such persons in Italy is recognized by both governments as necessary in connection with the functioning of the installations: ...Technical representatives of firms having special relations with the United States Armed Forces, when such persons come to Italy for other than temporary visits.

The Tri-Component Directive Italy (1995 ed.) recognized the concept of TRs, but did not provide much elaboration. The next edition of the Tri-Component Directive (2001) did elaborate on TR. For the first time, there was a more detailed definition of TR. According to the Tri-Component Directive, TRs are:

Persons who have a high degree of skill or knowledge in the systematic procedures by which a complex or scientific task is accomplished, as distinguished from routine mental or physical processes. The skills and knowledge must have been acquired through higher education or through a long period of specialized training and experience. Examples of positions that have been granted technical representative status include warranty repair technicians for repair of complex equipment; key executive and supervisor positions in government-owned, contractor-operated facilities that perform major maintenance on U.S. government-owned vehicles; and computer software engineers. Examples of

positions that have been denied technical representative status include administrative personnel; automobile sales representatives; carpenters; masons; painters; plumbers; sales representatives for china, jewelry, clothes, computers, encyclopedias, and similar items; and secretaries and typists.

Since TRs are considered part of the Civilian Component in Italy, they need to meet the requirements of Civilian Component. Specifically, they could not be citizens of Italy nor “ordinarily resident”¹ in Italy. Additionally, they had to have the required identification. Considered members of the Civilian component, TRs were entitled to logistic supports such as gas coupons, Exchange and Commissary privileges and attendance at DoDDS schools for their children.

TECHNICAL REPRESENTATIVE ACCREDITATION: THE OLD PROCEDURES

Previous to 2004, the TRs were not screened for qualification before they showed up in Italy. This meant that they had already obtained a Mission Visa. Since contractors are not entitled to official passports, the Mission Visa was placed in their tourist passport. Once arriving at the installation where U.S. Forces are stationed², the TR would then seek authorization of

¹ “Ordinarily resident” is a term unique to the NATO SOFA. It was not defined in the NATO SOFA. The Tri-Service Directive defines “ordinarily resident.” See Tri-Service Directive on Personal Property, Rationed Goods, Motor Vehicles and Drivers’ Licenses, Civilian Component and Technical Representative Status (COMUSNAVEUR INST. No. 5840.2E; USAREUR REGULATION No. 550-32; USAF INSTRUCTION No. 36-101), 20 February 2004.

² The relevant installations are Aviano AB (Air Force); Caserma Ederle, Vicenza (Army); Naples NSA (Navy); Sigonella NAS (Navy); La Maddalena NSA (Navy).

logistic support. Originally, the installation would accept the application of the TR and then send the application to USSSO for approval. USSSO would review the application for proper orders, visa, and any indication of Italian citizenship or “ordinary resident status.” If the applicant was determined to be a TR, then USSSO issued what was called a SOFA Stamp to be placed in the contractor’s passport. In 2000, USSSO delegated the entire screening process to the Staff Judge Advocate offices of the U.S. Forces units in Italy.

The process worked in that most contractors come from the U.S. and have the type of expertise that fit the definition. However, many contractors were unaware of the Italian visa requirement. Thus, they would arrive in Italy and be forced to return as they did not have the proper visa that would allow them to apply for a permit of stay longer than 90 days. Increasingly, USSSO became aware that many contractors were also able to circumvent (albeit non-intentionally) the SOFA Stamp process and obtain logistic support via other means. Finally, the rotation of military personnel hampered the continuity of the program.

In the summer of 2002, USSSO proposed new procedures for the Technical Representative process. It was at this time DOCPER entered the picture. Based on their experience in Germany, DOCPER proposed an adaptation of the Contractor Accreditation program used in Germany. USSSO, DOCPER, and the Service Component Headquarters spent the next year developing the new process. On 12 July 2004, the Civilian Personnel Accreditation Procedures for Italy was published. The procedures are an Annex to the current Tri-Services Directive for Italy (April 2004). The new procedures have resulted in a reinvigorated screening process and a more orderly accreditation program.

THE NEW TECHNICAL REPRESENTATIVE ACCREDITATION PROCESS

One of the biggest changes of the new process is the use of computer automation. The TR applicant and COR begin the accreditation process by going to the DOCPER Italy Operations Web Site. That website walks the TR applicant and COR through the process. The first step is to download the Microsoft Excel form “TR Application Form” from the forms page. DOCPER’s database contains information on current contracts and companies doing business in Italy. If the TR applicant’s company, contract, task order, and position are already listed in the form, then the TR applicant fills out the form and forwards it to the COR for transmittal to DOCPER. If the company, contract, task order, and position information are not listed, the COR will need to forward this information to DOCPER, who will then update the database. DOCPER then screens the information submitted. It evaluates the criteria based upon the guidance found in the Civilian Personnel Accreditation Procedures for Italy. Any legal questions are referred to USSSO. Basically, DOCPER makes two determinations: (1) Whether the position to be utilized in contract performance meets the definition of a TR position, and, (2) Whether the person proposed to fill the position can be accredited as a TR, including determination of that person’s educational/technical level and whether the person is “ordinarily resident” in Italy.

If DOCPER determines a TR applicant qualifies for TR accreditation, DOCPER submits an Accreditation Letter for USSSO signature. This Accreditation Letter is addressed to the Italian Consulate with jurisdiction for the residence of the TR applicant. USSSO certifies to the Italian Consulate that the person has been accredited as a TR and should receive a Mission Visa. Technology speeds up the process as DOCPER generates the Accreditation Letter that has the embedded signature of the Officer-in Charge of the USSSO. DOCPER sends this letter to

USSSO via e-mail. The Officer-in-Charge of USSSO replies with approval or disapproval. Once approved, DOCPER sends the accreditation letter to the COR along with a completed DD Form 1172-2 (Application for Uniformed Services ID Card). The COR sends the Accreditation Letter and DD Form 1172-2 to the TR. The TR then goes to the Italian Consulate, receives the Mission Visa and travels to Italy. After arrival, the TR goes to the POC for TR Accreditation at the installation. There, the TR receives the ID card and then goes to the local Italian Police Station for their Mission Permit of Stay.

BENEFITS OF THE NEW PROCESS

As stated above, technology has made the process even faster. Because of databases, pre-printed forms, and e-mail, information can be transferred immediately. Additionally, the database provides for the first time a complete record of TRs accredited in Italy. Unlike Germany, the Government of Italy has allowed the U.S. Forces to conduct the TR Accreditation unilaterally. However, continued Italian policy in this matter is conditioned upon confidence in the U.S. Forces procedures. Perhaps for the first time, U.S. Forces confidently can state that they carefully screen each TR that comes into Italy. The Civilian Personnel Accreditation Procedures for Italy also have built into the new system a comprehensive review. This allows DOCPER to establish the baseline database for TRs in Italy.

The most significant development noted soon after initiation of the new procedures is how many calls DOCPER and USSSO received from Contractors attempting to obtain Mission Visas without knowing about the accreditation procedures. Italian Consulates have been instructed by the Italian Ministry of Foreign Affairs to not issue a Mission Visa to a DoD contractor without the USSSO signed accreditation letter. This new step has completely

remedied the previous problem of DoD contractors showing up in Italy without proper paperwork.

Another advantage of the new process is uniformity. Previously, each installation had slightly different procedures or different offices handling TRs. Now there is a single POC handling TR matters for Italy. Additionally, while the procedures are different in some aspects Contracting Office Representatives and Contractors now benefit from having a single POC for both Germany and Italy.

Finally, the benefits of the new process have been obtained without any additional manpower or creation of new offices. Due to the use of technology and benefits of its experience in Germany, DOCPER was able to incorporate the Italy Operations within its existing operations. Even better, the new TR Accreditation process now frees up a function that previously took up the time of installation legal offices.

CONCLUSION

The TR process in Italy was nearing breakdown. A new approach was needed. However, rather than inventing a new approach, the U.S. Forces in Italy adapted a successful approach in Germany. The results have been positive and a tribute to the old adage of not reinventing the wheel.